

## Message Text

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ACTION EA-10

INFO OCT-01 ISO-00 EB-07 TRSE-00 /018 W

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R 130435Z FEB 75

FM AMEMBASSY RANGOON

TO SECSTATE WASHDC 9147

USDOC WASHDC

INFO AMEMBASSY MANILA

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MANILA FOR USADB

E.O. 11652: N/A

TAGS: BTIO EAID ADB BM

SUBJ: PHUGYI RESERVOIR PROJECT; PHUGYI COMMITTEE SOLICITS

KICK-BACK FROM U.S. FIRM

REF: RANGOON 2988

1. EMBASSY LOCAL COMMERCIAL SPECIALIST RECENTLY INQUIRED RE STATUS OF CONSULTANT PROPOSALS FOR ADB-FINANCED PHUGYI RESERVOIR PROJECT. PHUGYI COMMITTEE MEMBER RESPONSIBLE FOR SELECTION OF CONSULTANT FIRM TOLD HIM THAT CONSIDERATION NARROWED TO THREE PROPOSALS FROM:

1. GUTTERIDGE, HASKINS & DAVEY AND SNOWY MOUNTAIN ENGINEERING - AUSTRALIA
2. WATER POWER DEVELOPMENT - INDIA
3. MALCOLM PIRNIE INC. - USA

COMMITTEE MEMBER THEN INQUIRED IF MALCOLM PIRNIE WOULD BE WILLING TO GIVE KICK-BACK OF ROUGHLY ONE PERCENT OF TOTAL VALUE OF CONTRACT. HE IMPLIED THAT MONEY WOULD BE DIVIDED EQUALLY AMONG THE COMMITTEE MEMBERS AND WOULD PROBABLY BE DECISIVE FACTOR IN FAVOR OF MALCOLM PIRNIE. EMBASSY LOCAL REPLIED, QUITE CORRECTLY, THAT HE HAD NO AUTHORITY TO OFFER KICK-BACK AND DID NOT WANT TO

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BECOME INVOLVED IN SCHEME.

2. THIS PRACTICE NOT UNCOMMON IN BURMA, BUT, MORAL CONSIDERATIONS ASIDE, EMBASSY WOULD ADVISE AGAINST U.S. FIRM ENGAGING IN SUCH TACTICS ON PRACTICAL GROUNDS. FIRM THAT WINS CONTRACT WILL BE OPERATING IN BURMA FOR TWO TO THREE YEARS, AND THE FIRM'S WILLINGNESS TO DEAL "UNDER-THE-TABLE" FROM VERY OUTSET WOULD LIKELY BECOME KNOWN AMONG THOSE IN THE GOVERNMENT THAT ARE PREPARED TO TAKE ADVANTAGE OF IT. THE FIRM WOULD PROBABLY FIND ITSELF PLACED IN A POSITION WHERE CONSTANT DEMANDS FOR "EXTRA PAYMENT" FOR ANY AND ALL TYPES OF NECESSARY SERVICES COULD ENDANGER THE SUCCESS AND PROFITABILITY OF ITS OPERATION IN BURMA. IF THIS APPROACH IS REJECTED FROM THE BEGINNING, FIRM THAT WINS CONTRACT WILL BE IN MUCH BETTER POSITION TO RESIST FURTHER DEMANDS FOR UNDER-TABLE PAYMENTS.

3. SECONDLY, EMBASSY BELIEVES MALCOLM PIRNIE STANDS VERY GOOD CHANCE OF OBTAINING CONTRACT WITHOUT OFFERING KICK-BACK. COMMITTEE MEMBER MAY HAVE APPROACHED OTHER FIRMS ON LIST WITH SIMILAR REQUEST; HOWEVER, THESE FIRMS MAY ALSO CONSIDER THAT LONG-TERM IMPLICATIONS FOR ADDITIONAL HARASSMENT AND PAYMENT DEMANDS ARE NOT WORTH THE INITIAL INVESTMENT. (AUSTRALIAN EMBASSY SOURCE DENIED KNOWLEDGE OF SIMILAR APPROACH TO AUSTRALIAN FIRM ON LIST. SAME SOURCE SAID THAT ACCORDING TO THEIR INFORMATION COMMITTEE HAD ALREADY RANKED PROPOSALS STILL UNDER CONSIDERATION WITH U.S. FIRM FIRST AND AUSTRALIAN FIRM THIRD, BUT THEY HEARD OTHER FIRM, IN SECOND PLACE, IS BINNIE & PARTNER OF U.K.)

4. COMMITTEE ALSO UNDER SOME OBLIGATION TO DEMONSTRATE BOTH WITHIN GUB AND TO ADB THAT IT GAVE FULL CONSIDERATION TO ALL PROPOSALS AND THAT WINNING BID SELECTED ON BASIS OF ITS MERITS. THIS PLACES CONSTRAINT ON SELECTION BY KICK-BACK METHOD. IN ADDITION, WE HAVE NO EVIDENCE OTHER THAN IMPLICATION BY ONE MEMBER THAT ENTIRE SELECTION COMMITTEE INVOLVED IN SCHEME. THUS, THIS COULD BE ATTEMPT BY ONE MEMBER TO PROFIT BY A DECISION THAT HAS ALREADY BEEN MADE.

5. USDOC AT ITS DISCRETION MAY WISH TO INFORM MALCOLM PIRNIE INC. OF THIS DEVELOPMENT.  
OSBORN

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## Message Attributes

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**Draft Date:** 13 FEB 1975  
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**TAGS:** BTIO, EAID, BM, ADB-1  
**To:** STATE COM  
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